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Elimination of coercive economic measures as a means of political and economic compulsion

Elimination of coercive economic measures as a means of political and economic compulsion

Report of the Secretary-General**

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* A/55/150.
** This report includes replies received from Governments as at 15 August 2000.

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I. Introduction

1. By resolution 53/10 of 26 October 1998, entitled "Elimination of coercive economic measures as a means of political and economic compulsion", the General Assembly requested the Secretary-General to prepare a report on the implementation of the resolution and to submit it to the Assembly for consideration at its fifty-fifth session.

2. Pursuant to the above-mentioned request, the Secretary-General by a note verbale to Member States dated 18 May 2000, invited Governments to provide him with any information they might wish to contribute to the preparation of the report.

3. The present report reproduces the replies received from Governments as at 15 August 2000. Further replies will be reproduced in addenda to the present document.

II. Replies received from Governments

Benin

[Original: French]
[27 June 2000]

The Republic of Benin neither recognizes nor applies any coercive economic measure or law of an extraterritorial nature unilaterally imposed by any State whatsoever.

Democratic People's Republic of Korea

[Original: English]
[31 July 2000]

1. In line with its consistent policy to oppose all forms of unilateral coercive measures against sovereign States, the Government of the Democratic People's Republic of Korea has been actively supporting United Nations resolutions aimed at putting an end to the sanctions.

2. The Government of the Democratic People's Republic of Korea develops relations with other countries based on the principles of independence, peace and friendship.

3. All forms of unilateral coercive measures contrary to the Charter of the United Nations, international laws and practices should be eliminated once and for all.

4. In this regard, we would like to express serious concern over the negative impact of unjust sanctions applied by the United States of America against some countries including the Democratic People's Republic of Korea, in particular upon international relations, and demand that the coercive measures be eliminated immediately and completely.

Ecuador

[Original: Spanish]
[1 June 2000]

Ecuador has not adopted, and will not adopt in future, any laws that run counter to freedom of international trade, contain coercive economic measures as a means of political and economic compulsion, or violate the principle of non-interference in the internal affairs of another State. These norms are enshrined in the Political Constitution of the State and therefore determine each and every one of Ecuador's legal, political and economic policies at both the domestic and international levels.

Iran (Islamic Republic of)

[Original: English]
[28 July 2000]

1. The General Assembly has adopted successively resolutions 51/22 of 27 November 1996 and 53/10, in which it expressed its deep concern at the negative impact of unilaterally imposed extraterritorial coercive economic measures on trade, financial and economic cooperation, including trade and cooperation at the regional level, as well as serious obstacles to the free flow of trade and capital at the regional and international levels.

2. The Member States of the United Nations, in adopting these resolutions, have rejected the application of extraterritorial coercive economic measures or legislative enactments unilaterally imposed by any State. They have also called for the repeal of unilateral extraterritorial laws that impose sanctions on corporations and nationals of other States.

3. Promulgation and application of laws or regulations that have extraterritorial effects or that affect the sovereignty of other States and the legitimate interests of entities or persons under their jurisdiction — a clear violation of the universally accepted principles of international law — have been strongly rejected on various occasions by the overwhelming majority of States.

4. The Havana South Summit as well as the recent Ministerial Meeting of the Coordinating Bureau of the Movement of Non-Aligned Countries, held at Cartagena, Colombia, have called for the elimination and rejection of coercive economic measures and the extraterritorial implementation of such laws against developing countries.

5. Simultaneously, an increasing number of voices from multilateral forums, regional bodies and the private sector have joined the international community and called for total elimination and lifting of unilateral extraterritorial and other forms of coercive economic measures.

6. While coercive economic measures as a means of political and economic compulsion, in particular through the enactment of extraterritorial legislation, contravene the well-recognized provisions and principles of international law and the Charter of the United Nations, threaten the basic fabric of international peace, security and stability and violate the sovereignty of States, they also impede and constrain settlement of disputes through the promotion of mutual dialogue, understanding and peaceful means.

7. In these times of rapid and unprecedented change, the world needs peace, security and stability, which could be strengthened through collective responsibility of countries and also through, inter alia, respect for sovereignty, rejection of interference in the internal affairs of other States, refraining from compulsion and intimidation, as well as creation of an enabling environment for replacing conflict and unequal relations with dialogue and negotiations.

8. These measures have serious adverse impact on the overall economic, commercial, political, social and cultural life of the targeted countries, and intensify their challenges in this era of globalization and its concomitant traumatic transformations. Moreover, they have an adverse impact on the transfer of technology, increase the rate of investment risk, threaten financial and monetary management, weaken industrial and agricultural infrastructures and undermine the commercial policies of the targeted countries.

Libyan Arab Jamahiriya

[Original: Arabic]
[5 May 2000]

1. The General Assembly has on more than one occasion expressed its concern at the extraterritorial laws enacted by certain States, which violate the sovereignty of other States and have a negative impact on the interests of corporations and their personnel. All the charters and resolutions adopted by the General Assembly in this regard affirm that the enactment of such laws is incompatible with the principles of the Charter of the United Nations, constitute a flagrant violation of the norms of international law, have an extremely negative impact on the economies of developing and developed countries alike and pose an obstacle to the endeavours of the international community aimed at constructive cooperation and mutually beneficial exchange.

2. The General Assembly has also affirmed that the enactment of such laws constitutes interference in the internal affairs of States and a violation of their sovereignty, and is incompatible with nearly every international instrument, including the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, adopted by the General Assembly in resolution 2131 (XX) of 21 December 1965, and the Charter of Economic Rights and Duties of States, proclaimed by the Assembly in resolution 3287 (XXIX) of 12 December 1974. Both of these instruments state that no State may use or encourage the use of economic, political or any other type of measure to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights.

3. By adopting such resolutions and instruments, the General Assembly has given clear expression to the overwhelming rejection by Member States of coercive measures and the strength of their opposition to the use of such measures against other States as a means of compulsion and of forcing them to accept policies that are not appropriate or suitable for them. An international consensus has developed with regard to the need for a halt to be put to such measures, which are adopted by certain States with a view to pursuing

their foreign policies and which are employed in their dealings with other States.

4. The States concerned should comply with and respect the will of the international community, as expressed in the resolutions, declarations and instruments adopted at various levels within the United Nations and in other bodies. However, the measures that they have taken and the practices they pursue demonstrate that their intentions are quite different. The United States of America, while not alone, is the State that has greatest recourse to this type of measure, has ignored international demands and continued its policy of imposing sanctions and embargoes: in mid-1996, the Senate adopted the D'Amato-Kennedy Act, which penalizes foreign companies that invest in the Libyan oil sector.

5. As was to be expected, the promulgation of that Act was widely greeted with unease and disapproval, and, in its resolution 51/22, the General Assembly expressed grave concern over the negative impact of unilateral extraterritorial coercive economic measures and called for the immediate repeal of unilateral extraterritorial laws. It also called upon all States not to recognize unilateral extraterritorial coercive economic measures or legislative acts imposed by any State.

6. Other international organizations, including the Organization of the Islamic Conference, the League of Arab States and the Group of 77 and China, have openly rejected coercive measures, while the Assembly of Heads of State and Government of the Organization of African Unity demanded the elimination of such measures. Meetings of the Movement of Non-Aligned Countries at the heads of State and Government and ministerial levels have condemned such laws and the insistence of some States on applying and reinforcing them unilaterally; have affirmed that such measures as the D'Amato-Kennedy Act represent a violation of international law and the Charter of the United Nations; and have called upon the international community to take effective measures to halt this tendency.

7. States, as well as international and regional organizations, responded angrily: the French position was explained to the General Assembly on 29 September 1996 by its Minister for Foreign Affairs, while the Irish Minister for Foreign Affairs addressed the General Assembly on 24 September 1996, speaking on behalf of the European Union. The unilateral sanctions policy has also been discussed by a number of newspapers, including *The Financial Times*, in which it was stated, in its edition of 12 July 1996, that the American sanctions were a measure that would destroy the laws governing international economic and trade relations. In *The New York Times* of 1 July 1996, it was stated that the sanctions constituted a violation of international trade conventions.

8. The United States of America should have responded to the resolutions and calls of States, regional organizations and the General Assembly which, in its resolution 53/10, expressed its deep concern at the negative impact of coercive measures and the serious obstacles posed to the freedom of trade at the regional and international levels. The Assembly also reiterated its call for the repeal of unilateral extraterritorial laws that impose sanctions on corporations and nationals of other States. However, the United States did quite the opposite: not only did it ignore the calls made by States and international organizations for the repeal of the coercive measures provided for in the D'Amato-Kennedy Act, but the United States Administration proceeded to apply those measures. On 3 January 2000, the President of the United States addressed letters to the Speaker of the House of Representatives and the President of the Senate, notifying them of the extension beyond 7 January 2000 of the sanctions imposed on the Libyan Arab Jamahiriya, pursuant to the national emergency declared on 7 January 1986.

9. The United States of America claimed that the promulgation of the Iran and Libya Sanctions Act of 1996 (H.R. 3107), known as the D'Amato-Kennedy Act, was in response to the failure by the Libyan Arab Jamahiriya to comply with Security Council resolutions 731 (1992), 748 (1992) and 883 (1993) or to abandon its attempt to acquire weapons of mass destruction. The President repeated those claims in his letter to the Congress, adding that he considered it necessary to maintain economic pressure on Libya in order to restrict its ability to finance international terrorism.

10. In fact, there is not a grain of truth in the pretexts used by the United States Administration in order to extend the imposition of its coercive measures. The Libyan Arab Jamahiriya has carried out in full the demands of the Security Council in its resolutions, including, most recently, sending the two Libyans accused of involvement in the Pan Am flight 103 incident to the Netherlands to stand trial before the

court there. Both directly and through regional and international organizations, such as the Movement of Non-Aligned Countries, the Organization of African Unity, the Organization of the Islamic Conference and the League of Arab States, States have recognized that Libya has met all of the demands of the Security Council. This was also recognized by the Secretary-General in his report submitted to the Security Council pursuant to paragraph 16 of Security Council resolution 883 (1993) of 11 November 1993 and paragraph 8 of resolution 1192 (1998) of 27 August 1998 (S/1999/726). It was also confirmed by the Declaration of the South Summit of the Group of 77 held at Havana, from 10 to 14 April 2000, and the Thirteenth Ministerial Meeting of the Movement of Non-Aligned Countries, held at Cartagena, Colombia, on 8 and 9 April 2000.

11. The claim that the D'Amato-Kennedy Act was intended to deprive the Libyan Arab Jamahiriya of a resource which it used to finance international terrorism is completely groundless, unsubstantiated by the evidence and the facts. Not only has Libya frequently and repeatedly condemned international terrorism in all its forms and whatever its origin, but it is also a party to most of the international conventions concerning international terrorism. The Libyan Arab Jamahiriya is so concerned to ensure that this phenomenon is suppressed that it called for the holding of a special session of the General Assembly to prepare an effective programme to combat terrorism, including international terrorism, of which the Libyan people have been victims.

12. The United States of America appears to imagine that Libya is attempting to manufacture weapons of mass destruction and, eager to restrict the proliferation of such weapons, wishes to obstruct those endeavours by means of the D'Amato-Kennedy Act. The United States should remember that Libya is a party to most of the international disarmament conventions, foremost among those being the Treaty on the Non-Proliferation of Nuclear Weapons. We must ask ourselves which country it is that stockpiles nuclear weapons: is it not the United States of America which has the largest arsenal of such weapons and is continually seeking to increase their effectiveness?

13. One of the misapprehensions informing the reasoning behind the D'Amato-Kennedy Act is that Libyan behaviour represents a threat to United States national security. The international community certainly recognizes the spurious nature of this claim: it is inconceivable that Libya, with its small population and limited resources, could constitute a threat of any kind whatsoever to the security of the United States, which is thousands of miles away. On the contrary, the Libyan Arab Jamahiriya, which gained independence through the 1969 revolution, clearing its soil of foreign military bases and achieving self-determination and control over its own resources, has, ever since, been subject to United States threats and coercive practices on a number of fronts, including the following:

(a) In 1981, the United States Government closed the Libyan People's Bureau in Washington and imposed restrictions on the movement of members of the Permanent Mission of the Socialist People's Libyan Arab Jamahiriya to the United Nations in New York, restrictions that are still in force today. At the same time, the Government cancelled the residency permits of Libyan students studying in the United States, and imposed a complete embargo on American exports to Libya, including irrigation equipment. It also halted all projects being undertaken in Libya in which American companies were in any way involved;

(b) In 1982, the United States Administration banned the sale to Libya of American civilian aircraft or of any other aircraft in the construction of which American technology was used. With effect from 1986, it banned the export to the Libyan Arab Jamahiriya of any American commodities or technology, including the spare parts essential to ensuring the safety of civilian aircraft and aviation, and imposed an embargo on air traffic between the Libyan Arab Jamahiriya and the United States of America and on the sale of tickets for air travel that included the Libyan Arab Jamahiriya in the itinerary. In that same year, the President of the United States signed an Executive Order to freeze all Libyan assets and property in the United States, including the assets of official organizations and institutions and assets held or managed by Americans or in American offshore banks. More than US$ 1 billion was frozen as a result;

(c) The United States Government carried out media campaigns aimed at obfuscating the position of the Libyan Arab Jamahiriya and blackening its international reputation. United States fleets in the Mediterranean Sea carried out acts of provocation and manoeuvres off the Libyan coast which culminated in 1986, when the United States unleashed a military and naval onslaught inside Libyan territorial waters and on

the main cities and, in particular, Tripoli and Benghazi, which caused scores of fatalities and an even greater number of injuries, in addition to the destruction of property.

14. In view of the above, the only explanation for the promulgation of the D'Amato-Kennedy Act is that it is just another chapter in the series of United States operations against the Libyan Arab Jamahiriya. The most alarming aspect of it is that it intensifies the action taken against the Libyan people by the United States of America for almost two decades. It provides for the imposition of sanctions on corporations and nationals of other States that work with the Libyan Arab Jamahiriya in the field of oil and reinforces the embargo which the United States has imposed on the Libyan Arab Jamahiriya in this respect since 1981, when the President of the United States signed an Executive Order banning the export of equipment, machinery, materials, spare parts and any American technology for use in the production of Libyan oil. The intention was to destroy this sector completely, and it is easy to appreciate just how devastating the effect of these measures was on a country in which oil is the principal source of national revenue and which provides the main funding for economic and social development plans.

15. These examples demonstrate the effects accruing from implementation of the provisions of the D'Amato-Kennedy Act, which is the subject of General Assembly resolutions 51/22 and 53/10. They also demonstrate the other effects of United States practices against the Libyan people, including denying them access to knowledge, technology and the benefits of scientific development, confiscating their property, preventing them from implementing vital projects and putting obstacles in the path of economic cooperation with other countries by frightening off and terrorizing their corporations and nationals in order to prevent them from investing in the Libyan Arab Jamahiriya. While drawing attention yet again to the dangers of these measures, the Libyan Arab Jamahiriya repeats its appeal to the international community, through the General Assembly and the other international organizations, to resolutely oppose United States aims in promulgating the D'Amato-Kennedy Act or any other extraterritorial coercive economic measures that have been adopted in violation of the Charter of the United Nations and other bases of international law, in order to prevent the anarchy that this Act seeks to spread throughout the world. The Libyan Arab Jamahiriya also urges the States of the world to make clear to the State which promulgated this Act and insists that it continue to be implemented that this is a glaring error that must not continue. That State's sovereignty is not superior to that of any other State and the international community has not delegated to it the administration of global affairs through its domestic legislation.

16. The Libyan Arab Jamahiriya also urges the international community strongly to reject the imposition of laws and prescriptions which have extraterritorial implications and all other forms of coercive economic measures, including unilateral sanctions against developing countries, and reiterates the urgent need for them to be repealed forthwith. The Libyan Arab Jamahiriya stresses that measures of this type are not merely destructive of the principles enshrined in the Charter of the United Nations and international law, but also pose a grave threat to freedom of trade and investment. The Libyan Arab Jamahiriya therefore urges the international community not to recognize or implement such measures.

Mali

[Original: French]
[26 June 2000]

1. The Government of the Republic of Mali firmly condemns the use of coercive economic measures as a means of political compulsion. Recourse to such measures constitutes a flagrant violation of the norms of international law, in particular those relating to freedom of trade and navigation.

2. The Government of the Republic of Mali considers that States must refrain from using unilateral coercive measures. The Government of the Republic of Mali is therefore convinced that the international community must adopt, as a matter of urgency, effective measures to eliminate the imposition against developing countries of unilateral coercive measures that are not authorized by the competent United Nations organs or are not in conformity with the principles of international law as set forth in the Charter of the United Nations, and are contrary to the fundamental principles of the international trade system.

3. The Government of the Republic of Mali opposes the adoption by any country of unilateral coercive economic measures in order to exert pressure aimed at changing a political or economic situation that does not lie within its territorial jurisdiction. In that regard, it reaffirms that every State has the inalienable right to economic and social development and to choose the political, economic and social system that it deems to be most appropriate for the welfare of its people, in accordance with its national plans and policies.

Mexico

[Original: Spanish]
[14 June 2000]

1. Mexico is convinced that the international community should adopt urgent and effective measures to prevent the imposition against developing countries of coercive economic measures which are not expressly authorized by the relevant organs of the United Nations or are inconsistent with the principles of international law as set forth in the Charter of the United Nations.

2. The resolution of conflicts by peaceful means is essential to the coexistence of nations. Consultation and negotiation are the instruments through which nations should resolve their problems. Mexico is also opposed to the use of any type of unilateral measure, whether economic or political, by any State as a means of exerting pressure in order to change political or economic processes outside its jurisdiction.

3. It will be recalled that, in 1996, Mexico promulgated the Act to protect trade and investment from foreign norms that contravene international law, the primary provisions of which establish that:

(a) National courts are prohibited from recognizing and enforcing foreign judicial decisions and orders based on foreign legislation with extraterritorial effects against companies which are domiciled in Mexico;

(b) Companies domiciled in Mexico are prohibited from acting or failing to act, by virtue of such legislation, in ways which may be harmful to Mexican trade or investment;

(c) Persons physically or legally domiciled in Mexico shall have the right to apply to the federal courts to request compensation for loss resulting from the judicial or administrative proceedings of foreign courts or authorities in implementation of such legislation;

(d) National courts shall be authorized to recognize and enforce, as appropriate, judgements and awards issued in other countries ordering persons who have derived economic benefit from a judgement or award issued in their favour on the basis of foreign legislation to pay compensation.

4. In accordance with General Assembly resolution 52/181 of 18 December 1997, the Government of Mexico has repeatedly expressed its opposition to such measures in various international trade forums, such as the Organisation for Economic Cooperation and Development and the World Trade Organization.

Nauru

[Original: English]
[27 July 2000]

The Republic of Nauru has not in the past and does not presently apply any extraterritorial coercive economic measures or legislative enactments unilaterally imposed by or on any Member State.

Senegal

[Original: French]
[5 June 2000]

The Republic of Senegal neither applies nor recognizes unilateral economic measures or laws as a means of political and economic compulsion.

Yemen

[Original: English]
[14 June 2000]

The Republic of Yemen reiterated its opposition to the unilateral punitive economic, commercial and financial embargo imposed by the United States of America against the Libyan Arab Jamahiriya and, accordingly, the Government of Yemen, maintaining its traditional position of respect for the self-determination of peoples, has neither promulgated nor applied unilaterally any laws against Libya.